

MANDATE

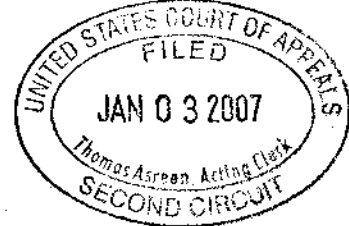
United States Court of Appeals

FOR THE
SECOND CIRCUIT

JUDGMENT

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 3rd day of January, two thousand seven.

Before: Hon. Dennis Jacobs, *Chief Judge*
Hon. Richard J. Cardamone,
Hon. Roger J. Miner,
Circuit Judges



Docket No. 06-2459-op

In re: THE COUNTY OF ERIE

ADAM PRITCHARD, EDWARD ROBINSON, and JULENNE TUCKER, both individually and on behalf of a class of others similarly situated,

Plaintiffs-Respondents.

-v.-

THE COUNTY OF ERIE, PATRICK GALLIVAN, both individually and in his official capacity as Sheriff of the County of Erie, TIMOTHY HOWARD, both individually and as Undersheriff of the County of Erie, DONALD LIVINGSTON, both individually and as Acting Superintendent of the Erie County Correctional Facility, and ROBERT HUGGINS, both individually and as Deputy Superintendent of the Erie County Correctional Facility,

Defendants-Petitioners.

H. MCCARTHY GIBSON, both individually and as Superintendent of the Erie County Holding Center,

Defendant.

Motion for a writ of mandamus ordering the United States District Court for the Western District of New York to vacate an order compelling production of communications asserted to be protected by the attorney-client privilege.

This cause came on to be heard on the transcript of record from the United States District Court for the Western District of New York and was submitted by counsel.

On consideration whereof, IT IS HEREBY ORDERED, ADJUDGED, and DECREED that the writ of mandamus is granted; the district court's April 17, 2006 order is vacated; the district court is instructed to determine whether the attorney-client privilege was nonetheless waived; pending adjudication, the district court is directed to enter an order protecting the confidentiality of the disputed e-mails in accordance with the opinion of this court.

FOR THE COURT:
THOMAS ASREEN, Acting Clerk

by Tracy W Young
Tracy W. Young
Motions Staff Attorney

A TRUE COPY
Thomas Asreen, Acting Clerk
By: [Signature]
Deputy Clerk

2/27/07 YL